

REFERENCE TITLE: **human trafficking; liability; victim services**

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2152

Introduced by
Representatives Sinema, Meyer, Campbell CH, Farley, Lujan, Waters

AN ACT

AMENDING TITLE 12, CHAPTER 6, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6;
AMENDING SECTIONS 36-2901 AND 46-244, ARIZONA REVISED STATUTES; RELATING TO
HUMAN TRAFFICKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 12, chapter 6, Arizona Revised Statutes, is amended
3 by adding article 18, to read:

4 ARTICLE 18. HUMAN TRAFFICKING

5 12-781. Civil liability for human trafficking: statute of
6 limitations: definitions

7 A. A PERSON WHO COMMITS AN OFFENSE INVOLVING HUMAN TRAFFICKING IS
8 CIVILLY LIABLE TO THE VICTIM FOR ACTUAL DAMAGES, COMPENSATORY DAMAGES OR
9 PUNITIVE DAMAGES AND IS SUBJECT TO INJUNCTIVE RELIEF OR ANY OTHER APPROPRIATE
10 RELIEF.

11 B. THE VICTIM MAY BE AWARDED UP TO THREE TIMES THE VICTIM'S ACTUAL
12 DAMAGES OR TEN THOUSAND DOLLARS, WHICHEVER IS GREATER.

13 C. THE COURT MAY AWARD PUNITIVE DAMAGES PURSUANT TO SUBSECTION A OF
14 THIS SECTION ONLY ON A SHOWING OF MALICE, OPPRESSION, FRAUD OR DURESS IN THE
15 COMMISSION OF AN OFFENSE INVOLVING HUMAN TRAFFICKING.

16 D. A CIVIL ACTION BROUGHT PURSUANT TO THIS SECTION SHALL BE COMMENCED
17 WITHIN:

18 1. FIVE YEARS AFTER THE DATE THE VICTIM WAS RELEASED FROM THE HUMAN
19 TRAFFICKING.

20 2. EIGHT YEARS AFTER THE VICTIM ATTAINS EIGHTEEN YEARS OF AGE IF THE
21 VICTIM WAS A MINOR AT THE TIME OF THE HUMAN TRAFFICKING.

22 E. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, THE STATUTE OF
23 LIMITATIONS IS TOLLED DURING THE PERIOD OF TIME IN WHICH ANY OF THE FOLLOWING
24 APPLIES:

25 1. THE VICTIM IS UNDER A DISABILITY.

26 2. THE VICTIM IS DELAYED IN FILING AN ACTION BECAUSE OF DURESS OR
27 THREATS MADE TO THE VICTIM BY THE DEFENDANT.

28 3. CRIMINAL CHARGES ARE PENDING AGAINST THE VICTIM.

29 4. A GUARDIAN AD LITEM IS APPOINTED TO REPRESENT A MINOR OR
30 INCOMPETENT VICTIM.

31 F. IN AN ACTION BROUGHT UNDER THIS SECTION THE COURT MAY AWARD THE
32 SUCCESSFUL PARTY REASONABLE ATTORNEY FEES, REASONABLE EXPERT WITNESS FEES AND
33 COSTS.

34 G. THE COURT SHALL STAY AN ACTION BROUGHT UNDER THIS SECTION DURING
35 THE PENDENCY OF ANY CRIMINAL INVESTIGATION OR PROCEEDING FOR CRIMINAL CONDUCT
36 AGAINST THE VICTIM INVOLVING HUMAN TRAFFICKING.

37 H. FOR THE PURPOSES OF THIS SECTION:

38 1. "DISABILITY" INCLUDES BEING A MINOR, INSANITY, IMPRISONMENT,
39 PSYCHOLOGICAL TRAUMA, CULTURAL OR LINGUISTIC ISOLATION OR OTHER INCAPACITY OR
40 INCOMPETENCE.

41 2. "HUMAN TRAFFICKING" MEANS AN OFFENSE IN VIOLATION OF SECTION
42 13-1306, 13-1307 OR 13-1308.

43 Sec. 2. Section 36-2901, Arizona Revised Statutes, is amended to read:

44 36-2901. Definitions

45 In this article, unless the context otherwise requires:

1 1. "Administration" means the Arizona health care cost containment
2 system administration.

3 2. "Administrator" means the administrator of the Arizona health care
4 cost containment system.

5 3. "Contractor" means a person or entity that has a prepaid capitates
6 contract with the administration pursuant to section 36-2904 to provide
7 health care to members under this article either directly or through
8 subcontracts with providers.

9 4. "Department" means the department of economic security.

10 5. "Director" means the director of the Arizona health care cost
11 containment system administration.

12 6. "Eligible person" means any person who is:

13 (a) Any of the following:

14 (i) Defined as mandatorily or optionally eligible pursuant to title
15 XIX of the social security act as authorized by the state plan.

16 (ii) Defined in title XIX of the social security act as an eligible
17 pregnant woman with a family income that does not exceed one hundred fifty
18 per cent of the federal poverty guidelines, as a child under the age of six
19 years and whose family income does not exceed one hundred thirty-three per
20 cent of the federal poverty guidelines or as children who have not attained
21 nineteen years of age and whose family income does not exceed one hundred per
22 cent of the federal poverty guidelines.

23 (iii) Under twenty-one years of age and who was in the custody of the
24 department of economic security pursuant to title 8, chapter 5 or 10 when the
25 person became eighteen years of age.

26 (iv) Defined as eligible pursuant to section 36-2901.01.

27 (v) Defined as eligible pursuant to section 36-2901.04.

28 (b) A full-time officer or employee of this state or of a city, town
29 or school district of this state or other person who is eligible for
30 hospitalization and medical care under title 38, chapter 4, article 4.

31 (c) A full-time officer or employee of any county in this state or
32 other persons authorized by the county to participate in county medical care
33 and hospitalization programs if the county in which such officer or employee
34 is employed has authorized participation in the system by resolution of the
35 county board of supervisors.

36 (d) An employee of a business within this state.

37 (e) A dependent of an officer or employee who is participating in the
38 system.

39 (f) Not enrolled in the Arizona long-term care system pursuant to
40 article 2 of this chapter.

41 (g) Defined as eligible pursuant to section 1902(a)(10)(A)(ii)(XV) and
42 (XVI) of title XIX of the social security act and who meets the income
43 requirements of section 36-2929.

44 (h) **A VICTIM OF AN OFFENSE IN VIOLATION OF SECTION 13-1306, 13-1307 OR
45 13-1308.**

1 7. "Malice" means evil intent and outrageous, oppressive or
2 intolerable conduct that creates a substantial risk of tremendous harm to
3 others.

4 8. "Member" means an eligible person who enrolls in the system.

5 9. "Noncontracting provider" means a person who provides health care
6 to members pursuant to this article but not pursuant to a subcontract with a
7 contractor.

8 10. "Physician" means a person licensed pursuant to title 32, chapter
9 13 or 17.

10 11. "Prepaid capitated" means a mode of payment by which a health care
11 contractor directly delivers health care services for the duration of a
12 contract to a maximum specified number of members based on a fixed rate per
13 member notwithstanding:

14 (a) The actual number of members who receive care from the contractor.

15 (b) The amount of health care services provided to any member.

16 12. "Primary care physician" means a physician who is a family
17 practitioner, general practitioner, pediatrician, general internist, or
18 obstetrician or gynecologist.

19 13. "Primary care practitioner" means a nurse practitioner certified
20 pursuant to title 32, chapter 15 or a physician assistant certified pursuant
21 to title 32, chapter 25. This paragraph does not expand the scope of
22 practice for nurse practitioners as defined pursuant to title 32, chapter 15,
23 or for physician assistants as defined pursuant to title 32, chapter 25.

24 14. "Section 1115 waiver" means the research and demonstration waiver
25 granted by the United States department of health and human services.

26 15. "Special health care district" means a special health care district
27 organized pursuant to title 48, chapter 31.

28 16. "State plan" has the same meaning prescribed in section 36-2931.

29 17. "System" means the Arizona health care cost containment system
30 established by this article.

31 Sec. 3. Section 46-244, Arizona Revised Statutes, is amended to read:

32 46-244. Victims of domestic violence; human trafficking;
33 identification; referrals; waiver; definition

34 A. The department or its agent shall identify individuals who are
35 victims of domestic violence **OR HUMAN TRAFFICKING** at the time of application
36 for or during the receipt of temporary assistance for needy families. At any
37 time individuals shall be given the chance to identify themselves as victims
38 of domestic violence **OR HUMAN TRAFFICKING**. If identification and
39 verification of **VICTIM STATUS OR** abuse exist, the department shall refer the
40 individual to appropriate available services and shall waive for up to six
41 months, pursuant to a determination of good cause, any program work
42 requirements.

43 B. FOR THE PURPOSES OF THIS SECTION, "HUMAN TRAFFICKING" MEANS AN
44 OFFENSE IN VIOLATION OF SECTION 13-1306, 13-1307 OR 13-1308.